

Application No. 10/701,078
Reply dated July 6, 2005
Response to Office Action dated April 6, 2005

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REMARKS

Favorable consideration and allowance are respectfully requested for claims 1-4 and 6-31 in view of the foregoing amendments and the following remarks.

Claim 1 is amended to incorporate the limitations of claims 5 and 9. Claim 5 is cancelled, without prejudice and without any disclaimer of the subject matter therein.

Claim 1 is also amended to reflect that the cleaning unit is adapted to clean essentially the whole inside surface of the installation and that it is the cleaning unit that utilizes the parked position. These features are supported in the specification, at least in paragraphs [0031] and [0033].

Claim 9 is amended to clarify that the parked position may be used during the production or processing of foodstuffs or pharmaceuticals to avoid contamination of the foodstuffs or pharmaceuticals with cleaning solution. Support for this amendment may be found in the specification, at least in paragraph [0033].

New claims 30 and 31 are also provided and relate to an installation for the production or processing of foodstuffs or pharmaceuticals that includes a cleaning device as set forth in claim 1. Support for these new claims may be found in the specification, at least in paragraphs [0005], [0028] and [0031]. It is respectfully submitted that these newly added claims are patentably distinguishable over the cited references for the limitations contained therein as explained below.

The rejection of claims 1-3, 5-7, 9, 14 and 16 under 35 U.S.C. § 102(b) as anticipated by Hallet et al. (EP 0958,849) is respectfully traversed.

These claims relate to a device for cleaning an installation for the production or processing of foodstuffs or pharmaceuticals comprising a cleaning unit adapted to clean essentially the whole inside surface of the installation, a parked position for the cleaning unit which allows for the production or processing foodstuffs or

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pharmaceuticals and a flexible connection to supply cleaning agent to the cleaning unit.

The Hallet reference appears to be printed in French, with the exception of an abstract, title and set of claims, which are available in English. No translation of the French document was provided with the recent Office Action. Hallet appears to relate to a device for washing lamellae (see the title "Lamellar clarifier and clarifier lamellae washing device"). Reviewing the abstract and claims, it appears that the lamellae are elements of a settler (100). The settler (100) is used in liquid/solid separation for water treatment (see claim 1 (English in column 8)).

This reference relates to water treatment and cannot anticipate the present claims which are directed to installations and devices for use in the production or processing of foodstuffs or pharmaceuticals. The claims are limited in both the preamble and the language which indicates that the cleaning unit is adapted to clean essentially the whole inside surface of the installation where the production or processing of foodstuffs or pharmaceuticals takes place.

Further, Hallet does not teach a parked position in the interior of the installation, much less a parked position configured so that the cleaning unit may be parked during production or processing of foodstuffs or pharmaceuticals. Because Hallet relates to water treatment, there would be no need to provide a parked position that would avoid any cleaning solution contamination to the foodstuffs or pharmaceuticals being treated. The Office Action asserts that this claim element is met because the cleaning unit of Hallet may be parked within the settler (100). This does not meet the limitations of claim 1, as amended, since the parked position must be such that the cleaning unit may be parked thereon during production or processing of foodstuffs or pharmaceuticals. Further, claim 9 clarifies that the parked position is useful to prevent contamination of the foodstuffs or pharmaceuticals with cleaning agent.

Moreover, Hallet teaches a cleaning device that is useful for cleaning only a small part, the lamellae, and not the inside surface of the settler. The presently

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claimed invention, on the other hand, relates to a device useful for cleaning essentially the whole inside surface of the installation. Thus, rather than cleaning only a part of the device, the presently claimed invention relates to a cleaning device that cleans the inside surfaces of the device.

Claims 3, 6-7, 9, 14 and 16 all depend from claim 1 and include the limitations thereof. As indicated above, claim 5 has been cancelled. Accordingly, Hallet fails to teach each and every element of the claims, as amended, and the anticipation rejection cannot be properly maintained. Reconsideration and withdrawal thereof are respectfully requested.

The rejection of claim 4 under 35 U.S.C. § 103 as obvious over Hallet in view of Horridge is respectfully traversed.

Claim 4 depends from claim 3 and adds that the nozzle tip is configured to be driven in a rotational movement by the flow of the cleaning agent.

Horridge is offered as disclosing a nozzle configured to be driven in a rotational movement. The Office Action makes the conclusory assertion that it would have been obvious to provide the rotatable nozzle of Horridge to clean all the inside surfaces in one pass. The present record includes no explanation of why one of skill in the art would be motivated to try to combine the two references. As explained above, Hallet is directed to cleaning lamellar elements, not inside surfaces. If one were to modify Hallet to include rotatable nozzles so as to clean inside surfaces of an installation, the cleaning effect on the lamellar elements would be lessened, if not destroyed entirely. The patent laws recognize that a proposed modification is improper if it would destroy the intended function of the item being modified. Indeed, the MPEP includes a subsection entitled "The Proposed Modification Cannot Render the Prior Art Unsatisfactory for Its Intended Purpose" see § 2143.01.

Not only would the proposed modification of Hallet either destroy the intended functionality of or at least render less effective the device of Hallet, there is no

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motivation for one of skill to try such a modification. Absent such a suggestion or motivation, proper obviousness rejection cannot be maintained.

In view of the foregoing, reconsideration and withdrawal of this rejection are respectfully requested.

The rejection of claims 8, 10-11, 15 and 17-26 under 35 U.S.C. § 103 as obvious over Hallet in view of Vowles is respectfully traversed, as is the rejection of claims 12 and 13 as obvious over Hallet in view of Vowles and Smith.

Vowles is offered as teaching a driving gear connected to a cleaning unit with a power transmission element, and a roller connected to the driving gear. Even assuming, *arguendo*, that Vowles does teach the claimed guide system and driving gear, the reference does not make up for the failure of the primary reference to teach all of the elements of claim 1, as explained above. Without a teaching of each and every element, a proposed combination of references fails to render a claim obvious. Because the proposed combination fails to teach all of the elements of claim 1, the combination cannot render obvious claims 10-11, 15 and 17-26 which depend from claim 1.

Claim 12 indicates that the power transmission element of claim 10 is a chain and claim 13 defines the chain as a non-lubricated steel chain.

Smith is offered as teaching the use of a stainless steel chain in a conveyor assembly. Smith does not make up for the failure of the primary reference to teach all of the elements of claim 1, as explained above. Without a teaching of each and every element, a proposed combination of references fails to render a claim obvious. Because the proposed combination fails to teach all of the elements of claim 1, the combination cannot render obvious claims 12 and 13, which depend from claim 1.

Reconsideration and withdrawal of these rejections are respectfully requested.

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CONCLUSION


In view of the foregoing, the application is respectfully submitted to be in condition for allowance, and prompt favorable action thereon is earnestly solicited.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #038724.52864US).

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